

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New Claim 18 is being added.

After amending the claims as set forth above, claims 1-18 are now pending in this application.

Substance of Interview

In accordance with the request in the Interview Summary dated June 27, 2008 that the Applicant file a statement of substance of the interview, please be advised that the Interview Summary accurately summarizes the interview. Furthermore the Applicant wishes to thank the Examiner for granting the telephone interview of June 26, 2008 to discuss this application.

Rejection under 35 U.S.C. § 102

Claims 1-6, 8-14, 16, and 17 are rejection under 35 U.S.C. § 102(b) as being anticipated by U.S. Pub. No. 2002/0162651 to Nakagome *et al.* (hereafter "Nakagome"). This rejection is respectfully traversed.

Nakagome does not disclose all of the features of claim 1 because Nakagome does not disclose a heat exchanger comprising a first tube plate and tubes, "wherein the first tube plate and the tubes are formed seamlessly with a one-piece construction," as recited in claim 1. Claims 2-6, 8-14, 16, and 17 depend from claim 1. Applicant submits that the disclosure of the application provides support for this language. For example, support is provided at page 3, lines 12-15, of the specification.

Nakagome discloses an EGR cooler that includes tubes 3 joined to a plate 2 via brazing or a weld 12. See Nakagome at paragraphs 0006, 0007, 0033, 0034. However, Nakagome does not disclose that the tubes 3 and plate 2 can be formed seamlessly with a one-piece construction, as recited in amended claim 1. Therefore, Nakagome does not anticipate claim 1 because Nakagome does not disclose all of the features recited in claim 1.

Claim 3 recites a heat exchanger comprising a first tube plate and tubes, "wherein the first tube plate and the tubes are formed with a one-piece construction, wherein the first tube plate and the tubes are produced by impact extrusion."

Nakagome does not disclose that the tubes 3 and plate 2 have a one-piece construction that is produced by impact extrusion. Instead, Nakagome discloses that the tubes 3 and plate 2 are joined together, such as by brazing or welding. Therefore, Nakagome does not anticipate claim 3 because Nakagome fails to disclose all of the features of claim 3.

Reconsideration and withdrawal of this rejection is respectfully requested for at least the reasons discussed above.

Rejections under 35 U.S.C. § 103

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagome. This rejection is respectfully traversed. Claim 7 depends from claim 1. For at least the reasons discussed above, it would not have been obvious to modify the EGR cooler of Nakagome to provide the heat exchanger of claim 7 because Nakagome fails to disclose or suggest all of the feature of claim 1. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagome in view of U.S. Patent No. 4,747,449 to Nickell (hereafter “Nickell”). This rejection is respectfully traversed. Nickell fails to remedy the deficiencies of Nakagome discussed above in regard to independent claim 1, from which claim 15 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-14, 16, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagome in view of U.S. Patent No. 3,668,757 to Rieder (hereafter “Rieder”). This rejection is respectfully traversed.

Rieder discloses a method of forming a heat exchanger in which heating tubes are formed integrally with an end plate by impact extrusion. See abstract of Rieder. However, it would not have been obvious to one of ordinary skill in the art to combine the teachings of Nakagome and Rieder. A proposed modification render the prior art unsatisfactory for its intended purpose. See M.P.E.P. § 2143.01, Part V. Nakagome discusses past problems with leaks occurring between plates 2 and tubes 3 that have been joined together, such as via brazing or welding. See paragraphs 0002-0010 of Nakagome. Nakagome addresses this

problem by providing tubes with ends that are tapered and welded to a plate to provide a weld with a high bonding strength that avoids minute crevices and resulting crevice corrosion. See paragraphs 0011-0014 of Nakagome.

Modifying the EGR cooler of Nakagome to have heating tubes integrated with an end plate would render the EGR cooler of Nakagome unsatisfactory for its intended purpose of providing an EGR cooler made from two joined pieces that avoids the problems of leaks and crevice corrosion due to minute crevices. Therefore, one of ordinary skill in the art would not have combined the teachings of Nakagome and Rieder. Reconsideration and withdrawal of this rejection is respectfully traversed.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagome and Rieder, as applied to claim 6 above, and further in view of Nickell. This rejection is respectfully traversed. Nickell fails to remedy the deficiencies of Nakagome and Rieder discussed above in regard to independent claim 1, from which claim 15 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

New Claim

New claim 18 has been added. Claim 18 recites a heat exchanger comprising a first tube plate and tubes, "wherein the first tube plate and the tubes are seamlessly formed with a one-piece construction, wherein the first tube plate and the tubes are produced by impact extrusion." Applicant respectfully submits that claim 18 is allowable over the prior art for at least the reasons discussed above in regard to claims 1-7.

Conclusion

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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